

for the military commission, and for the accused.

(c) TRANSCRIPT; RECORD.—The transcript of a military commission under this chapter shall be under the control of the convening authority of the military commission, who shall also be responsible for preparing the record of the proceedings of the military commission.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2578.)

PRIOR PROVISIONS

A prior section 948l, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2605, related to detail or employment of reporters and interpreters, prior to the general amendment of this chapter by Pub. L. 111-84.

§ 948m. Number of members; excuse of members; absent and additional members

(a) NUMBER OF MEMBERS.—(1) Except as provided in paragraph (2), a military commission under this chapter shall have at least five primary members and as many alternate members as the convening authority shall detail. Alternate members shall be designated in the order in which they will replace an excused primary member.

(2) In a case in which the accused before a military commission under this chapter may be sentenced to a penalty of death, the military commission shall have the number of primary members prescribed by section 949m(c) of this title.

(b) PRIMARY MEMBERS.—Primary members of a military commission under this chapter are voting members.

(c) ALTERNATE MEMBERS.—(1) A military commission may include alternate members to replace primary members who are excused from service on the commission.

(2) Whenever a primary member is excused from service on the commission, an alternate member, if available, shall replace the excused primary member and the trial may proceed.

(d) EXCUSE OF MEMBERS.—No primary or alternate member of a military commission under this chapter may be absent or excused after the military commission has been assembled for the trial of a case unless excused—

(1) as a result of challenge;

(2) by the military judge for physical disability or other good cause;

(3) by order of the convening authority for good cause; or

(4) in the case of an alternate member, in order to reduce the number of alternate members required for service on the commission, as determined by the convening authority.

(e) ABSENT AND ADDITIONAL MEMBERS.—Whenever the number of primary members of a military commission under this chapter is reduced below the number of primary members required by subsection (a) and there are no remaining alternate members to replace the excused primary members, the trial may not proceed unless the convening authority details new members sufficient to provide not less than such number. The trial may proceed with the new members present after the recorded evidence previously introduced before the members has been read to

the military commission in the presence of the military judge, the accused (except as provided in section 949d of this title), and counsel for both sides. An alternate member who was present for the introduction of all evidence shall not be considered to be a new or additional member.

(Added Pub. L. 111-84, div. A, title XVIII, §1802, Oct. 28, 2009, 123 Stat. 2579; amended Pub. L. 113-66, div. A, title X, §1031(a), Dec. 26, 2013, 127 Stat. 849.)

PRIOR PROVISIONS

A prior section 948m, added Pub. L. 109-366, §3(a)(1), Oct. 17, 2006, 120 Stat. 2606, related to number of members, excuse of members, and absent and additional members of a military commission, prior to the general amendment of this chapter by Pub. L. 111-84.

AMENDMENTS

2013—Subsec. (a)(1). Pub. L. 113-66, §1031(a)(1)(A), substituted “at least five primary members and as many alternate members as the convening authority shall detail” for “at least five members” and inserted at end “Alternate members shall be designated in the order in which they will replace an excused primary member.”

Subsec. (a)(2). Pub. L. 113-66, §1031(a)(1)(B), inserted “primary” before “members”.

Subsecs. (b), (c). Pub. L. 113-66, §1031(a)(2)(B), added subsecs. (b) and (c). Former subsecs. (b) and (c) redesignated (d) and (e), respectively.

Subsec. (d). Pub. L. 113-66, §1031(a)(2)(A), (3), redesignated subsec. (b) as (d), inserted “primary or alternate” before “member” in introductory provisions, and added par. (4).

Subsec. (e). Pub. L. 113-66, §1031(a)(2)(A), (4), redesignated subsec. (c) as (e), substituted “Whenever the number of primary members of a military commission under this chapter is reduced below the number of primary members required by subsection (a) and there are no remaining alternate members to replace the excused primary members” for “Whenever a military commission under this chapter is reduced below the number of members required by subsection (a)”, and inserted at end “An alternate member who was present for the introduction of all evidence shall not be considered to be a new or additional member.”

SUBCHAPTER III—PRE-TRIAL PROCEDURE

Sec.

948q. Charges and specifications.

948r. Exclusion of statements obtained by torture or cruel, inhuman, or degrading treatment; prohibition of self-incrimination; admission of other statements of the accused.

948s. Service of charges.

§ 948q. Charges and specifications

(a) CHARGES AND SPECIFICATIONS.—Charges and specifications against an accused in a military commission under this chapter shall be signed by a person subject to chapter 47 of this title under oath before a commissioned officer of the armed forces authorized to administer oaths and shall state—

(1) that the signer has personal knowledge of, or reason to believe, the matters set forth therein; and

(2) that such matters are true in fact to the best of the signer’s knowledge and belief.

(b) NOTICE TO ACCUSED.—Upon the swearing of the charges and specifications in accordance with subsection (a), the accused shall be informed of the charges and specifications against the accused as soon as practicable.